**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE SIDE**

**CIVIL APPLICATION NO. 212 OF 2004**
**IN**
**SECOND APPEAL NO. 226 OF 2004**

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Office Notes, Office Memoranda
of of Coram, appearances, Court's
orders and Registrar's orders : Court's or Judge's orders

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**CORAM: P.V. KAKADE, J.**

**DATED: 15TH JULY, 2005**

**P.C.:**

1. Heard learned counsel for both parties.

2. The second appeal is already admitted. The application for stay is being adjudicated. Earlier order of ad-interim relief in terms of prayer clause (a) is passed on 11.2.2004.

3. The only point raised on behalf of the appellant at this stage is that the suit property consists land of only 2 Gunthas, whereas the stay order covers the land of 3 Gunthas and, therefore, stay should be confirmed only to the extent of 2 Gunthas and not for 3 Gunthas. My attention was also drawn to the contents of the written statement wherefrom it is clear that it was

the defendant's case that 2 Gunthas land under the house property was subjected to transfer besides 1 Guntha land was handed over to the defendant which was for the purpose of cattle shed. In view of the facts and circumstances, I am inclined to hold that the interest of the present appellant would be served if the disputed 1 Guntha land is protected by the appropriate order.

Hence the application for stay is made absolute in terms of prayer clause (a) with direction that the respondent shall not create any third party interest in disputed 1 Guntha land on which the cattle shed exists nor the said land would be subjected to transfer or alienate in any manner whatsoever pending the appeal.

With these directions, the application stands disposed of with no order as to costs.

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